

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

YVON ELLIS

PETITIONER

V.

NO. 4:15CV61-DMB-JMV

WARDEN CORNELIUS TURNER, ET AL.

RESPONDENTS

ORDER

The Court considers, *sua sponte*, whether to transfer this action to the Fifth Circuit Court of Appeals.

On May 12, 2005, Petitioner was convicted of statutory rape. Pursuant to 28 U.S.C. § 2254, Petitioner submitted a petition for a writ of *habeas corpus*. In connection with the same conviction he now seeks to challenge, Petitioner filed at least two prior unsuccessful § 2254 motions. *Ellis v. Byrd*, No. 4:07CV163-WAP-DAS (N.D. Miss.) (filed Oct. 2, 2007); *Ellis v. Jones*, No. 4:13CV20-MPM-SAA (N.D. Miss.) (sealed). The Antiterrorism and Effective Death Penalty Act requires that before an applicant files a second or successive petition in the district court, “[he] shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(3)(A) (2012). Petitioner has not obtained such an order. Rather than requiring dismissal of a petition on this basis, the Court of Appeals permits district courts to transfer the petition to it for consideration pursuant to 28 U.S.C. § 2244(a) and (b)(3)(c). *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997). Therefore, in the interest of justice and judicial economy, it is hereby **ORDERED** that:

1. This petition will be transferred to the Fifth Circuit Court of Appeals for Petitioner to seek leave to file this successive § 2254 petition;

2. The Clerk of Court is directed to transfer this petition and the entire record to the Fifth Circuit Court of Appeals in accordance with 28 U.S.C. § 2244(a) and (b)(3)(c), and *In re Epps*, 127 F.3d at 365; and
3. This case is **CLOSED**.

SO ORDERED, this 22nd day of June, 2015.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE